

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

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BABY DOE, A CITIZEN OF AFGHANISTAN	:	
CURRENTLY RESIDING IN NORTH	:	CIVIL ACTION NO. 3:22-CV-49
CAROLINA, BY AND THROUGH NEXT	:	
FRIENDS, JOHN AND JANE DOE; AND JOHN	:	
AND JANE DOE, CITIZENS OF AFGHANISTAN:	:	
AND LEGAL GUARDIANS OF BABY DOE,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
JOSHUA MAST, STEPHANIE MAST, RICHARD	:	
MAST, KIMBERLEY MOTLEY, AND AHMAD	:	
OSMANI,	:	
	:	
Defendants,	:	
	:	
and	:	
	:	
UNITED STATES SECRETARY OF STATE	:	
ANTONY BLINKEN AND UNITED STATES	:	
SECRETARY OF DEFENSE GENERAL	:	
LLOYD AUSTIN,	:	
	:	
Nominal Defendants.	:	

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**PLAINTIFFS' MOTION, AND MEMORANDUM OF LAW IN SUPPORT OF MOTION,
TO SEAL PROPOSED RESPONSE IN OPPOSITION TO DEFENDANT RICHARD
MAST'S RESPONSE IN SUPPORT OF MOTION TO STAY DISCOVERY AND SUR-
REPLY IN SUPPORT OF DEFENDANTS JOSHUA MAST AND STEPHANIE MAST'S
MOTION TO STAY DISCOVERY, AND EXHIBIT 1 THERETO**

Plaintiffs, by counsel, respectfully move for leave to file under seal their proposed Response in Opposition to Defendant Richard Mast's Response in Support of Motion to Stay Discovery and Sur-Reply in Opposition to Defendants Joshua Mast and Stephanie Mast's Motion

to Stay Discovery (“Sur-Reply”), and Exhibit 1 thereto, pursuant to Local Civil Rule 9 and this Court’s Protective Order (ECF No. 26). In support thereof, Plaintiffs state as follows:

The Sur-Reply and Exhibit 1 thereto contain information that remain subject to a sealing order issued by the Circuit Court of the County of Fluvanna (“Sealed Circuit Court Proceeding”). *See* ECF No. 73, Exh. B. That Order allows the parties in the Sealed Circuit Court Proceeding to file in this matter filings, transcripts, documents and discovery from the Sealed Circuit Court Proceeding, so long as such documents are filed under seal in this matter. While the circuit court in January 2023 verbally ordered that the seal on that proceeding will be lifted, it asked the parties to submit proposed redactions to the filings before it will unseal the record. The parties have done so, but the circuit court has not yet unsealed the record. Thus, the information appearing in the Sur-Reply and Exhibit 1 thereto remain under seal in the circuit court.

In addition, Exhibit 1 refers to Plaintiffs’ given names and that of their family members. This Court has issued a Protective Order (ECF No. 26) allowing Plaintiffs to proceed under pseudonyms, given the concern for their safety and that of other innocent non-parties, such as their family members.

Under the common law right of access to judicial records, documents should be sealed when a party’s interest in keeping the information contained therein confidential outweighs the presumed right of public access. *See, e.g. Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 178 (4th Cir. 1988); *Ashcroft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). “Courts have recognized that an interest in protecting the physical and psychological well-being of individuals related to the litigation, including family members and particularly minors, may justify restricting access” to court documents. *United States v. Harris*, 890 F.3d 480, 492 (4th Cir. 2018); *see also United States v. Doe*, 962 F.3d 139, 147 (4th Cir. 2020).

In this instance, the judge in the Sealed Circuit Court Proceeding ordered that all filings made in that proceeding be under seal and that, if they are filed in this matter, they must be filed under seal. In addition, the threats to the safety of the Plaintiffs and other innocent non-parties are very real, and have been recognized by this Court's Protective Order (ECF No. 26).

Plaintiffs have publicly filed a redacted version of their Sur-Reply. Thus, the public is not wholly deprived of an understanding of the general underlying factual basis for the request. The relief Plaintiffs seek in this motion is narrowly tailored to the circumstances, and aims to seal only what is absolutely necessary to safeguard the safety of persons related to the litigation. Defendants are not prejudiced as they are aware of Plaintiffs' identities and are parties to and/or aware of the Sealed Circuit Court Proceeding.

Accordingly, Plaintiffs request that their Sur-Reply and Exhibit 1 thereto be filed under seal, as the risks attendant to public disclosure of these documents is not likely to dissipate over time. Plaintiffs will promptly advise this Court if the circuit court lifts the seal on any item included in their Sur-Reply and Exhibit 1 thereto.

A proposed Order is attached as Exhibit A to this Motion.

Dated: July 25, 2023

Respectfully submitted,

/s/ Maya Eckstein

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of July 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

By: /s/ Maya M. Eckstein
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